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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION THREE

THE PEOPLE,

Plaintiff and Respondent,

v.

JAIME JUAN RUIZ,

Defendant and Appellant.

B218649

(Los Angeles County
Super. Ct. No. KA087014)

APPEAL from a judgment of the Superior Court of Los Angeles County,
Carol Williams Elswick, Judge. Affirmed.

Donna L. Harris, under appointment by the Court of Appeal, for Defendant and
Appellant.

No appearance for Plaintiff and Respondent.

Jaime Juan Ruiz appeals from the judgment entered following his plea of no contest to petty theft with a prior (Pen. Code, § 666)¹ and his admission that he previously had been convicted of a theft-related offense for purposes of the Three Strikes law (§§ 667, subds. (b)-(i) & 1170.12, subds. (a)-(d)). The trial court sentenced Ruiz to four years in prison. We affirm the judgment.

FACTUAL AND PROCEDURAL BACKGROUND

*1. Facts.*²

On January 26, 2009, business owner Ken Liu received a shipment of seven 37-inch televisions at his store, Top Win Enterprises. The televisions were sitting on a pallet outside his warehouse and, although Liu generally attempted to keep a close watch on merchandise waiting to be stored, on this particular day he “lost sight of the televisions.” While he was not looking, the televisions, along with the pallet they were sitting on, were stolen from the front of the warehouse. On the same day, a truck similar to Ruiz’s was seen driving away from the warehouse.

On April 1, 2009, Liu had received another shipment of televisions to his warehouse. As he was placing them in the warehouse for storage, an employee told Liu that an individual had loaded one of the televisions onto the bed of his truck and driven off. This second theft prompted Liu to install surveillance cameras throughout his business.

Maricela’s Furniture Store is located immediately next door to Top Win Enterprises. On May 3, 2009, Jose Cardenas, the owner of Maricela’s Furniture, arrived at his business to see Ruiz driving a truck out of the driveway. Cardenas could see several boxes in the bed of the truck. When Cardenas got out of his car, he noticed that several boxes from a shipment of furniture to his store were missing. Cardenas checked with his wife and she indicated that none of the furniture from that particular shipment had been sold. Cardenas then realized that Ruiz had stolen his property.

¹ All further statutory references are to the Penal Code unless otherwise indicated.

² The facts have been taken from the probation report.

During the investigation of the thefts from the two businesses, the video tape from Top Win Enterprises's security cameras was retrieved. Review of the tape showed that Ruiz was the individual who had stolen the boxes from Maricela's Furniture.

Ruiz, who was on probation at the time the thefts were committed, was located through his probation officer. He was taken into custody at his home. During his arrest, Ruiz admitted having taken merchandise from Maricela's and two televisions from Top Win Enterprises. He indicated he then sold the items "on the streets." At the time of his arrest, there was a couch in the bed of Ruiz's truck. Although Ruiz stated he had purchased the couch, he also indicated that he knew it had been stolen.

2. Procedural History.

In a felony complaint filed on May 29, 2009, Ruiz was charged with two counts of petty theft with priors in violation of section 666. As to both counts, it was alleged he previously had been convicted of five theft-related offenses, including two counts of the unlawful driving or taking of a vehicle (Veh. Code, § 10851, subd. (a)), two counts of second degree burglary (§ 459) and one count of petty theft with a prior (§ 666). It was further alleged as to counts 1 and 2 that Ruiz had been convicted of, and served prison terms for, the following felonies within the meaning of sections 1203, subdivision (e)(4)³ and 667.5, subdivision (b):⁴ two counts of the unlawful driving or taking of a vehicle (Veh. Code, § 10851, subd. (a)), two counts of second degree burglary (§ 459), one count of committing a lewd or lascivious act upon a child under 14 years of age (§ 288, subd. (a)), driving in willful or wanton disregard for the safety of others while fleeing from a

³ Section 1203, subdivision (e)(4) precludes a grant of probation if a defendant previously has been convicted of certain felonies.

⁴ Subdivision (b) of section 667.5 provides: "Except where subdivision (a) applies, where the new offense is any felony for which a prison sentence is imposed, in addition and consecutive to any other prison terms therefor[e], the court shall impose a one-year term for each prior separate prison term served for any felony; provided that no additional term shall be imposed under this subdivision for any prison term served prior to a period of five years in which the defendant remained free of both prison custody and the commission of an offense which results in a felony conviction."

pursuing police officer (Veh. Code, § 2800.2), possession of a controlled substance without a valid prescription (Health & Saf. Code, § 11377, subd. (a)), and committing petty theft with a prior theft-related conviction (§ 666)). Finally, it was alleged pursuant to the Three Strikes law (§ 667, subds. (b)-(i) & 1170.12, subds. (a)-(d)) that Ruiz had suffered a conviction for the serious or violent felony of willfully committing a lewd act upon a child under 14 years of age (§ 288, subd. (a)).

On June 15, 2009, Ruiz entered into a plea agreement under the terms of which he would plead no contest to one count of petty theft with a prior and admit previously having been convicted of petty theft with a prior for purposes of the Three Strikes law. In exchange, the trial court would sentence Ruiz to the mid-term of two years in prison, doubled to a total of four years pursuant to the Three Strikes law.

After waiving his right to a preliminary hearing, his right to a jury or court trial, his right to confront and cross-examine the witnesses against him, his right to subpoena witnesses and present a defense and his privilege against self-incrimination, Ruiz pleaded no contest to petty theft with a prior and admitted having previously been convicted of petty theft with a prior. After indicating that it had read and considered the probation report, the trial court sentenced Ruiz to four years in state prison. The trial court awarded Ruiz presentence custody credit for 20 days actually served and 10 days of good time/work time, for a total of 30 days. On the People's motion, the trial court dismissed the remaining counts and allegations.

The trial court ordered Ruiz to pay an \$800 restitution fine (§ 1202.4, subd. (b)), a stayed \$800 parole revocation restitution fine (§ 1202.45), a \$20 court security fee (§ 1465.8, subd. (a)(1)), a \$10 crime prevention fee (§ 1202.5) and a \$30 criminal conviction assessment (Gov. Code, § 70373). In addition, in view of the fact that Ruiz had entered a *Harvey*⁵ waiver, the trial court ordered him to “make restitution to all victims for the losses sustained by each victim” (§ 1202.4, subd. (f)).

⁵ *People v. Harvey* (1979) 25 Cal.3d 754.

Ruiz filed a notice of appeal on August 27, 2009.⁶ On the same date, the trial court granted his request for a certificate of probable cause.

This court appointed counsel to represent Ruiz on appeal on December 15, 2009.

CONTENTIONS

After examination of the record, counsel filed an opening brief which raised no issues and requested this court to conduct an independent review of the record.

By notice dated February 1, 2010, the clerk of this court advised Ruiz to submit within 30 days any contentions, grounds of appeal or arguments he wished this court to consider. No response has been received to date.

REVIEW ON APPEAL

We have examined the entire record and are satisfied counsel has complied fully with counsel's responsibilities. (*Smith v. Robbins* (2000) 528 U.S. 259, 278-284; *People v. Wende* (1979) 25 Cal.3d 436, 443.)

DISPOSITION

The judgment is affirmed.

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KITCHING, J.

We concur:

KLEIN, P. J.

ALDRICH, J.

⁶ The notice of appeal indicates Ruiz signed it on August 12, 2009. The envelope in which it was mailed indicates it was posted on August 13, 2009. Superior court records indicate it was received on August 18, 2009.